

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEDRICK WAYNE THOMPSON,

Defendant.

2:03-cr-00103-PMP-PAL

ORDER

(M/Documents - #49)

Before the court is the defendant's Request Transcripts for Plea and Sentencing Hearing (#49), filed February 12, 2007. Defendant sent the motion *pro se*.

Defendant was sentenced to a term of incarceration on May 28, 2004 (#44) and judgment (#45) was entered against him on June 9, 2004. The defendant waived his right to appeal his sentence when he entered into his plea agreement. (See Plea Agreement, #42.) The defendant is currently serving his term of incarceration. The defendant requests that the Clerk of the Court send him copies of several transcripts from his criminal case "in order to access the court through post-conviction pleadings." The defendant did not sign his request. The Clerk of the Court referred this matter to the magistrate judge assigned to the case for resolution.

Under certain circumstances, indigent criminal defendants have a constitutional or statutory right to copies of transcripts and/or other documents. See e.g. Douglas v. California, 372 U.S. 353 (1963). In the instant case, the defendant has also not specified the type of "post-conviction pleadings" he intends to file. The main forms of post-convictions proceedings are (1) an appeal of a defendant's conviction, which is of right, (2) a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct the defendant's sentence, or (3) a *habeas corpus* petition under 28 U.S.C. § 2241. A defendant's right to free transcripts differs depending upon the type of post-conviction proceeding sought. See e.g. Griffin

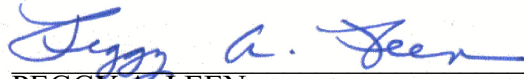
1 v. Illinois, 351 U.S. 12 (1956) (holding that where an appeal is of right, a defendant is entitled to free
2 copies of transcripts); U.S. v. Horvath, 157 F.3d 131, 132 (2d Cir. 1998) (finding that pursuant 28
3 U.S.C. § 753(f) a defendant does not have a right to a free transcript for purposes of a § 2255 motion
4 absent approval of an application to proceed *in forma pauperis*); 28 U.S.C. § 753(f) (providing that
5 “[f]ees for transcripts furnished in . . . habeas corpus proceedings to persons allowed to sue, defend, or
6 appeal *in forma pauperis*, shall be paid by the United States out of moneys appropriated for those
7 purposes.”).

8 As the defendant has not specified the type of post-conviction proceeding he intends to initiate,
9 and has not signed his request for a free copy of transcripts from his criminal case, the court will deny
10 his request at this time without prejudice.

11 Having reviewed and considered the matter,

12 **IT IS ORDERED** that Request Transcripts for Plea and Sentencing Hearing (#49) is DENIED
13 without prejudice.

14 Dated this 28th day of March, 2007.

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17 PEGGY A. LEEN
18 UNITED STATES MAGISTRATE JUDGE
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